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10/611,641	07/01/2003	Curtis G. Wong	MS303124.2 (MSFTP446USA)	1389
27195 7590 08/02/2007 AMIN. TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER KE, PENG	
			ART UNIT 2174	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/611,641

Applicant(s)

WONG ET AL.

Examiner

Peng Ke

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 and 44-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42, and 44-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This action is responsive to communications: Amendment, filed on 5/16/07.

This action is final.

Claims 1-42, and 44-51 are pending in this application. Claims 1, 24, and 45 are independent claims. In the Amendment, filed on 5/16/07, claims 1-24 and 45 were amended.

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

As set forth in MPEP 2106 (II) (A):

The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (Brenner v. Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96); In re Ziegler, 992, F.2d 1197, 1200-03, 26 USPQ2d 1600, 1603-06 (Fed. Cir. 1993)). Accordingly, a complete disclosure should contain some indication of the practical application for the claimed invention, i.e., why the applicant believes the claimed invention is useful.

Apart from the utility requirement of 35 U.S.C. 101, usefulness under the patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the practical application requirement. See Arrhythmia, 958 F.2d at 1057, 22 USPQ2d at 1036. Merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for patenting. For example, a claim directed to a word processing file stored on a disk may satisfy the utility requirement of 35 U.S.C. 101 since the information stored may have some "real world" value. However, the mere fact that the claim may satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is achieved under the practical application requirement. The claimed invention as a whole must produce a "useful, concrete and tangible" result to have a practical application.

As set forth in MPEP 2106 (IV) (B) (1):

Claims to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature which constitute "descriptive material." Abstract ideas, Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, Schrader, 22 F.3d at 292-93, 30 USPQ2d at

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1457-58, are not patentable. Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” In this context, “functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) “Nonfunctional descriptive material” includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of “descriptive material” are nonstatutory when claimed as descriptive material *per se*. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory).

As set forth in MPEP 2106 (IV)(B)(1)(a):

Similarly, computer programs claimed as computer listings *per se*, *i.e.*, the descriptions or expressions of the programs, are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program’s functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory. Accordingly, it is important to distinguish claims that define descriptive material *per se* from claims that define statutory inventions.

Products may be either machines, manufactures, or compositions of matter.

*A machine* is “a concrete thing, consisting of parts or of certain devices and combinations of devices.” *Burr v. Duryee*, 68 U.S. (1 Wall.) 531, 570 (1863).

If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., *Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760.

Office personnel must treat each claim as a whole. The mere fact that a hardware element is recited in a claim does not necessarily limit the claim to a specific machine or manufacture. Cf. *In re Iwahashi*, 888 F.2d 1370, 1374-75, 12 USPQ2d 1908, 191 1-12 (Fed. Cir. 1989), cited with approval in *Alappat*, 33 F.3d at 1544 n.24, 31 USPQ2d at 1558 n.24.

Claims 1-23 and 45 are rejected under 35 U.S.C. 101. The claims recite system that contains only software components. The description or expressions of the programs, are not physical “things.” They are neither computer component nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other

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claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F. 3d at 1583-84, 32 USPQ2d at 1035.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-10, 12, 13, 15-18, 24, 26-30, 32, 36-41, and 44-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacobi US Patent 6,064,980.

As per claim 1, Jacobi teaches an interactive media frame display system comprising:

A host component comprising at least one host media store; (see Jacobi, column 4, lines 23-35; The BookMatcher service is media store) and

A media frame component that facilitates full interactivity by a user to remotely browse, manipulate, and view a plurality of media items stored at in least one media store by interfacing with the host component via a communication connection between

the media frame component and the host component. (see Jacobi, column 4, lines 35-60; Web server provides the interactivities.)

As per claim 2, Jacobi teaches the system of claim 1. Jacobi further teaches the host component comprising one or more host locations, the host locations comprising at least one of a server and a computer, such that each host location comprises at least one host media store. (see Jacobi, column 4, lines 35-60)

As per claim 4, Jacobi teaches the system of claim 1. Jacobi further teaches the host location being arranged in hard wired network configuration with media frame component (see Jacobi, column 4, lines 36-65; it is inherent that the frame component is configured on a hard wired network.)

As per claim 5, Jacobi teaches the system of claim 1. Jacobi further teaches the communication component being at least one of a wireless connection and a hard wire connection. (see Jacobi, column 4, lines 36-65)

As per claim 6, Jacobi teaches the system of claim 1. Jacobi further teaches the media frame component comprising an annotation component that annotates one or more media items with one or more metadata. (see Jacobi, column 7, lines 56-column 8, line 8)

As per claim 7, Jacobi teaches the system of claim 6. Jacobi further teaches the metadata comprising at least one of intrinsic metadata and extrinsic metadata. (see Jacobi, column 7, lines 56-column 8, lines 8, figure 6, Author's link is intrinsic information and "Readers who brought the Ranch also bought" is extrinsic information)

As per claim 8, Jacobi teaches the system of claim 6. Jacobi further teaches the annotation component comprising a metadata generation component. (see Jacobi, column 7, lines 56-column 8, line 8; The rating component is the annotation component)

As per claim 9, Jacobi teaches the system of claim 8. Jacobi further teaches the metadata generation component comprising an analyzing component that identifies properties respectively associated with the media items. (see Jacobi, column 7, lines 56-column 8, line 8)

As per claim 10, Jacobi teaches the system of claim 9. Jacobi further teaches the analyzing component comprising a classifier. (see Jacobi, column 8, line 18-40; Engine that determines title categories is a classifier.)

As per claim 12, Jacobi teaches the system of claim 8. Jacobi further teaches the metadata generation component generating new metadata based at least in part upon a cluster of media items retrieved from one or more host location by analyzing the media items for at least one property common among them. (see Jacobi, column 7, lines 56-column 8, lines 8, figure 6)

As per claim 13, Jacobi teaches the system of claim 12. Jacobi further teaches the wherein analyzing the media items comprises at least one of face recognition, content analysis, and intrinsic metadata comparison. (see Jacobi, column 7, lines 17-30; Same author matching is an intrinsic metadata comparison.

As per claim 15, Jacobi teaches the system of claim 1. Jacobi further teaches an interface component comprising a least one of a microphone component, one or more command buttons, and a touch screen. (figure 3, "continue" is a command a button)

A per claim 16, Jacobi teaches the system of claim 1. Jacobi further teaches the one or more command buttons corresponding to at least one of play, back, reverse, forward, stop, pause, menu, mode, edit mode, view mode, annotation function, order function, skip, populated metadata list, file size, media item size, speed, time, data, volume save, delete, scroll bar, scroll tool, and power. (figure 3, “continue” is a forward command)

As per claim 17, Jacobi teaches the system of claim 1. Jacobi further teaches a microprocessor that controls, operates, and tracks retrieval of the one or more media items from one or more host locations. (see Jacobi, column 7, lines 56-column 8, lines 8; HTML page is a media item)

As per claim 18, Jacobi teaches the system of claim 1. Jacobi further teaches the media items comprising at least one of a photograph, a picture, a video, a video clip, a song, a sound, a document, and an electronic mail message. (Figure 6, HTML document regarding a book is a document)

As per claim 24, Jacobi teaches a method of browsing, viewing and/or manipulating one or more media items from a remote interactive media frame display comprising:

Retrieving one or more media items from at least one host location; (see Jacobi, column 4, lines 23-35; The BookMatcher service is media store)

Displaying the one or more media items on the interactive media frame; (see Jacobi, column 4, lines 35-60; Web server provides the interactivities.)

Receiving a user input that includes a request to browse, view or manipulate one or more media items; and (see Jacobi, column 4, lines 35-60;)and



Performing one or more acts on the one or more media items based at least in part upon the user input. (see Jacobi, column 4, lines 35-60;)

As per claim 26, which is dependent on claim 24, it is of the same scope as claim 4. Supra

As per claim 27, Jacobi teaches the method of claim 24. Jacobi further teaches detecting a user interface prior to receiving the user input. (see Jacobi, column 6, lines 40-50)

As per claim 28, Jacobi teaches the method of claim 24. Jacobi further teaches performing one or more media items comprises at least one of the following:

Annotating the one or more media items with one or more metadata; (see Jacobi, column 7, lines 56-column 8, lines 8)

Viewing one or more favorite media items on the display for enjoyments;

Ordering the one or more media items based at least in part upon any one of metadata and user preferences;

Removing the one or more media items from the interactive media frames; and

Storing the one or more media items in a local data store operable connected to the interactive media frame display

As per claim 29, Jacobi teaches the method of claim 28. Jacobi further teaches annotating the one or more media items with one or more metadata comprises:

Selecting one or more media items; and

Tagging the media items with metadata as a group and/or individually. (see column 7, lines 55-column 8, lines 10; A positive rating is tagging the media item)

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As per claim 30, Jacobi teaches the method of claim 29. Jacobi further teaches comprising storing the tagged media items in at least one of a local data store and a respective host media store. (see Jacobi, column 8, lines 1-40; Recording rating event of a title is tagging the media item)

As per claim 32, Jacobi teaches the method of claim 28. Jacobi further teaches wherein viewing one of more favorite media items on the display comprises performing at least one of the following:

Designating a percentage of media items having common metadata for viewing.  
(see Jacobi, column 8, lines 1-40)

Designating a viewing cycle in connection with at least one of an amount of viewable time per media item and a length of time one or more media items are available for viewing on the display.

As per claim 36, Jacobi teaches the method of claim 24. Jacobi further teaches sending changes made to the media items from the interactive media frame to the respective host location. (see Jacobi, column 6, lines 50-65)

As per claim 37, Jacobi teaches the method of claim 24. Jacobi further teaches media frame comprising items retrieved from one or more host locations. (see Jacobi, column 6, lines 50-65; Webpage is the media items)

As per claim 38, Jacobi teaches the method of claim 37. Jacobi further teaches the respective media items comprise a host identifier metadata such that changes made to the media items are communicated to their respective host location. . (see Jacobi, column 6, lines 50-65; Cookie is the host identifier)

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As per claim 39, Jacobi teaches the method of claim 24. Jacobi further teaches searching for media items from one or more host location that have metadata in common with a retrieved media items. (see Jacobi, column 8, lines 18-40)

As per claim 40, which is dependent on claim 27, it is of the same scope as claim 15. Supra

As per claim 41, which is dependent on claim 40, it is of the same scope as claim 16. Supra.

As per claim 44, Jacobi teaches the method of claim 1. Jacobi teaches a computer readable medium having thereon the system of claim 1. (see Jacobi, column 4, lines 25-36; the computer is a readable medium)

As per claim 45, it is reject with the same rationale as claim 24. Supra.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 11, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi US Patent 6,064,980 in view of Agarwal US Publication 2006/0178946.

As per claim 3, Jacobi teaches the interactive media frame display of claim 2. Jacobi fails to teach the host locations being arranged in wireless network configuration with the media frame component.

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Agarwal teaches the host locations being arranged in wireless network configuration with the media frame component. (see Agarwal paragraph 0075)

It would have been obvious to an artisan at the time of the invention to include Agarwal's teaching with method of claim Jacobi in order to allow users to access the network wirelessly.

As per claim 11, Jacobi teaches the interactive media frame display of claim 9. Jacobi fails to teach the analyzing component comprising a pattern recognition component.

Agarwal teaches the analyzing component comprising a pattern recognition component. (see Agarwal; paragraph 0031)

It would have been obvious to an artisan at the time of the invention to include Agarwal's teaching with method of claim Jacobi in order to identify or categorize information about the recipient.

As per claim 25, which is dependent on claim 24, it is of the same scope as claim 3. Supra.

Claims 14, 19-23, 31, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi US Patent 6,064,980 in view of Demers US Publication 2004/0068536.

As per claim 14, Jacobi teaches the method of claim 1. However, Jacobi fails to teach a local data store that stores one of more media items retrieved from one or more host location.

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Demers teaches a local data store that stores one or more media items retrieved from one or more host location. (see Demers, paragraph 0074)

It would have been obvious to an artisan at the time of the invention to include Demers' teaching with method of claim Jacobi in order to allow users to review their current collections.

As per claim 19, Jacobi teaches the method of claim 1. However, Jacobi fails to teach one or more audio output components.

Demers teaches method comprising one or more audio output components. (see Demers, paragraph 0098)

It would have been obvious to an artisan at the time of the invention to include Demers' teaching with method of Jacobi in order to allow users to review their audio collections.

As per claim 20, Jacobi and Demers teach the method of claim 19. Demers further teaches the one or more audio component being one or more speakers. (see Demers, paragraph 0098)

As per claim 21, Jacobi teaches the method of claim 1. However Jacobi fails to teach a calendar functionality component whereby the one or more media items can be viewed coincident with a real time calendar based at least in part on metadata associated with the media items.

Demers teaches a calendar functionality component whereby the one or more media items can be viewed coincident with a real time calendar based at least in part on metadata associated with the media items. (see Demers paragraph 0123, scheduled transmission is a real time calendar based event.)

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It would have been obvious to an artisan at the time of the invention to include Demers' teaching with method of Jacobi in order to allow users to schedule a transmission.

As per claim 22, Jacobi and Demers teach the method of claim 21. Demers further teaches the calendar being located on at least one of the interactive media frame display and the host location. (see Demers; figure 21, item 2110)

As per claim 23, Jacobi teaches the method of claim 1. However, Jacobi fails to teach the display is pocket sized thereby facilitating transportability of viewing favorite media items.

Demers teaches the display is pocket sized thereby facilitating transportability of viewing favorite media items. (see Demers; paragraph 0029)

It would have been obvious to an artisan at the time of the invention to include Demers' teaching with method of claim Jacobi in order to allow users to add portability to their media collection.

As per claim 31, Jacobi teaches the method of claim 28. However, Jacobi fails to teach ordering of the one or more media items based on least in part upon any one of metadata and user preferences comprises.

Demers teaches the ordering of one or more media items based on least in part upon any one of metadata or user preferences. (see Demers; paragraph 0095)

It would have been obvious to an artisan at the time of the invention to include Demers' teaching with method of claim Jacobi in order to allow user desired content.

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As per claim 33, Jacobi teaches the method of claim 28. However, Jacobi fails to teach the one or more media items are viewed in at least one of individually, in clusters, whereby more than one media item is available for viewing on the display.

However, Demers teaches the one ore more media items are viewed in at least one of individually, in clusters, whereby more than one media items are available for viewing on the display. (see Demers, paragraph 0074)

It would have been obvious to an artisan at the time of the invention to include Demers' teaching with method of Jacobi in order to allow users to view multiple media items in one screen.

As per claims and 34 and 35, they are of the same scope as claim 21 and 22.  
Supra.

Claims 42, 46, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi US Patent 6,064,980 in view of Kronz US Patent 6,675,196.

As per claim 42, Jacobi teaches the method of claim 40, but Jacobi fails to teach a microphone.

Kronz teaches a microphone. (see Kronz; column 5, lines 40-52)

It would have been obvious to an artisan at the time of the invention to include Kronz' teaching with method of claim Jacobi in order to provide users with an audio input.

As per claim 46, Jacobi and Kronz teach the method of claim 42. Jacobi further teaches means for searching for media items from one or more host locations that have metadata in come with a retrieved media item. (see Jacobi, column 6, lines 50-65)

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As per claim 47, Jacobi and Kronz teach the method of claim 42. Jacobi further teaches performing one or more media items comprises at least one of the following:

Annotating the one or more media items with one or more metadata; (see Jacobi, column 7, lines 56-column 8, lines 8)

Viewing one or more favorite media items on the display for enjoyments;

Ordering the one or more media items based at least in part upon any one of metadata and user preferences;

Removing the one or more media items from the interactive media frames; and

Storing the one or more media items in a local data store operable connected to the interactive media frame display

Claims 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi US Patent 6,064,980 in view of Bendinelli US Patent 6,061,719.

As per claim 48, Jacobi teaches the method of claim 1. However Jacobi fails to teach the interactive media frame display is implemented on a television.

However, Bendinelli the interactive media frame display is implemented on a television. (see Bendinelli, column 5, lines 30-60)

It would have been obvious to an artisan at the time of the invention to include Bendinelli's teaching with method of claim Jacobi in order to provide to present web content to a viewer in synchronization with television programming.

As per claim 49, Jacobi and Bendinelli teach the method of claim 48. Bendinelli further teaches the television comprises at least two modes:



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TV mode and passive mode, such that retrieving, viewing, browsing and manipulating media items pulled from the host location are performed in the passive mode. (see Bendinelli, column 5, lines 30-60)

As per claims 50 and 51, they are of the same scope as claim 48 and 49. Supra.

### ***Response to Arguments***

Applicant's arguments filed 5/16/07 have been fully considered but they are not persuasive.

Applicant's argument focused on the following:

A) Jacobi fails to teach manipulate the ability media items themselves to achieve a desired result.

B) Jacobi fails to teach media items.

Examiner disagrees.

A) The examiner does not agree for the following reasons:

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

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In this case, Jacobi teaches this limitation because the user can rate the item within the catalog, by doing this an annotation regarding the user's preference is tagged to the item. (see Jacobi column 7, lines 55-column 8, lines 10)

B) Jacobi teaches this limitation because the specification has defined media as messages (see page 1 of the specification) and the catalog is a message to user. (see Jacobi; column 7, lines 10-20)

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peng Ke whose telephone number is (571) 272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

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